



Battle Creek City Planning Commission

Staff report for October 27, 2010 meeting

To: Planning Commissioners

From: Christine M. Hilton, AICP, Planning Supervisor
Planning and Community Development Department

Subject: Petition S-05-10, a Special Use Permit request for Parcel #8140-00-027-0 (vacant parcel on E. Bidwell Street)

Summary

Petition from Ms. Janet Clemens, 48 E. Bidwell, Battle Creek, MI 49015, requesting a Special Use Permit to allow a vacant lot to be used as a neighborhood park in an “R-2 Two Family Residential District” as permitted under the Planning and Zoning Code, Chapter 1290, Sec. 1290.01(b)(14), for property located on E. Bidwell Street, Parcel #8140-00-027-0.

Background/Property Information

The subject site is located on the south side of E. Bidwell Street, between Terrace Avenue and Randolph Street, as indicated on the following aerial photograph:



The subject property is 9,148 s.f. (.21 acre) in size, which is consistent with the size of parcels in the neighborhood. It is “L” shaped with 44’ frontage along E. Bidwell Street and 66’ frontage along Randolph Avenue. The zoning of the subject property as well as surrounding properties is R-2 One/Two Family Residential. The property is currently vacant any improvements, as the house at this location was demolished in 2000. The grade at the front portion of the parcel along E. Bidwell Street is relatively flat, with a retaining wall supporting the south end of the property which slopes up toward the neighboring property.



The neighborhood is a fairly dense residential neighborhood with maintained homes built in the early to mid 1900’s.

The ownership of the parcel has been transferred to various non-profit or government entities since 1995. There have been numerous weed violations up until the time Neighborhoods, Inc. became owner in 2007. Previous to Neighborhoods, Inc acquiring this parcel, the City had received numerous weed violation complaints.

Proposed Scope of Project

Neighborhoods, Inc. has given Ms. Clemens, acting in her capacity as Director of the Spring Grove Hills Neighborhood Association, authority to apply for the special use permit for the use of the parcel as a park. The group has held a few activities on-site including a volunteer clean-up, general maintenance of the site, and fundraisers. Attached to the application are before and after photographs showing the marked improvements that have been made.

The intent of the park is to be a small passive pocket park for the immediate neighborhood, and the application contains a draft sketch plan of the improvements they are proposing, including a walking path, gazebo, benches, fountain, landscaping, and a picnic area. They are also proposing to run an underground electric service to the mid-point of the parcel for a decorative light pole (60 watt light bulb).

The closest park to this neighborhood is McCrea Park, which is located .25 miles away from this neighborhood. McCrea Park is 19 acres in size and is classified as a “Neighborhood Park” which, per Michigan DNRE recommended classification system, is intended to serve as the recreational and social focus for neighborhoods within a radius of .25 miles to .50 miles. While the subject parcel fits within those parameters, Capital Avenue, S.W. essentially serves as a barrier (real or perceived) to accessing this park. The next two closest parks (Meachem Park and Prospect Park) are more than .50 miles away, and are only 1-2 acres in size. The size and amenities of these parks are intended to serve their immediate neighborhood.

Applicable Zoning Ordinance Provisions

Chapter 1290.01(b)(14) allows for “privately operated community buildings or *recreation fields*, and swimming pools and community facilities owned and operated by neighborhood organizations....”. As this request is privately owned and the proposed use is recreational in nature, it qualifies as a special use subject to approval by the City Commission. The factors that qualify this project for a special use permit, as opposed to a normal extension of a residential use, is that the parcel is vacant and contains no residential use, it is not contiguous to the residence of the property owner.

Public Hearing and Notice Requirements

As required by the Zoning Enabling Act of 2006, as amended, an advertisement of this public hearing was published in the Battle Creek Shopper News on Thursday, September 30, 2010, and notices of the public hearing were also sent by regular mail on October 4, 2010 to ninety-three (93) property owners and occupants of properties located within 300 feet of the subject parcel.

Neighborhood Outreach

The petitioner is acting on behalf of the Spring Grove Hills Neighborhood Association and as such has support of that group. She has not yet attended the Neighborhood Planning Council #3 but expressed that she will be willing to attend their next scheduled meeting.

In response to the public hearing notice, staff has received a letter from Linda Goddard, 23 Phelps, in support of the project.

Basis For Determination

The Planning Commission is charged with reviewing each Special Use Permit request to determine any effects the proposed use would have on the Master Plan as well as on the character and development of the neighborhood. The ordinance and enabling legislation allows the Planning Commission and the City Commission to impose any conditions upon the request that would ensure the general objectives of the zoning ordinance are met and to preserve property values in the neighborhood.

The request shall be reviewed using the following standards listed in Chapter 1290.04 Basis for Determination (for Special Use Permits):

- (a) The use will be harmonious with and in accordance with the general objectives of the Master Plan.
- (b) The use will be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and will not change the essential character of the neighborhood.
- (c) The use will not be hazardous or disturbing to existing or future neighboring uses.
- (d) The use will be a substantial improvement to property in the immediate vicinity and to the community as a whole.
- (e) The use will be adequately served by essential public facilities and services, such as streets, highways, police and fire protection, drainage, refuse disposal and schools, or the persons or agencies responsible for the development shall be able to adequately provide such services.
- (f) The use will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.
- (g) The use will not create activities, processes, materials, equipment or conditions of operation that will be detrimental to any person, property or the general welfare by reason of an excessive generation of traffic, noise, smoke, fumes, glare, vibrations or odors.
- (h) The use will be consistent with the intent and purpose of this Zoning Code.

Analysis and Recommendation

After the public hearing, and upon deliberation, the Planning Commission can recommend to the City Commission approval, approval with conditions, or denial of the request for a special use permit. They may also postpone the project for specific reasons, with agreement from the applicant.

Staff has reviewed the request, and finds it consistent with the general standards listed in 1290.04, as outlined herein:

- (a) The use will be harmonious with and in accordance with the general objectives of the Master Plan as the request addresses the following goals/objectives in the master plan:

The City of Battle Creek Master Plan, as well as professionally planning concepts, holds that recreational opportunities are an important aspect of quality of life (pg. 3-4).

The development of a small, passive, pocket park at this location serves to strengthen the livability of the existing neighborhood through improved safety, reinvestment and community involvement (pg. 4-12), by providing residents of the area a place to visit, relax, and have a place for their children to socialize and play. The ability to have a small passive park available to the neighbors, combined with

the amount of time and effort that has been involved in its maintenance and improvement is integral to a successful, sustainable, and safer neighborhood.

One objective in the master plan specifically encourages private sector involvement in providing open space and recreation opportunities to the residents of Battle Creek (pg. 4-15), and the development of a small, privately-owned passive park at this location serves that purpose.

The master plan states that recreation programming and planning decisions should be based on regularly updated evaluation of resident needs and preferences (pg. 4-15); support for the project and the absence of any opposition (thus far) seems to indicate that there is a need in this neighborhood for a small park of this nature.

(b) As it exists today, and seen from the enclosed master park plan for the site, the park will be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and will not change the essential character of the neighborhood due to the passive nature of the recreation that will occur on the parcel.

(c) The use will not be hazardous or disturbing to existing or future neighboring uses as the proposed activities that will take place in the park, including amenities such benches, picnic tables, fountain, and a gazebo are all low intensity uses and amenities found in part on a typical residential property.

(d) The use will be a substantial improvement to property in the immediate vicinity and to the community as a whole as an existing overgrown vacant lot has been cleaned and maintained. The proposed use as a park will allow for continued improvements and maintenance and neighborhood investment on the parcel and in the surrounding area.

(e) The use will be adequately served by essential public facilities and no additional needs are required for this use. If at a later time the utilities become necessary, it would be the financial responsibility of the applicant and/or property owner.

(f) Because only private funds are being used for the development of the park, the use will not create excessive additional requirements at public cost for public facilities and services and therefore, the park will not be detrimental to the economic welfare of the community. Additionally, all costs associated with the maintenance and improvements to the park will be private in nature and will actually provide an amenity to residents in the neighborhood.

(g) Because of the nature of the use as a passive pocket park there will be no activities, processes, materials, equipment or conditions of operation that will be detrimental to any person, property or the general welfare by reason of an excessive generation of traffic, noise, smoke, fumes, glare, vibrations or odors. Any noise associated with the park will be the result of typical activities found in a residential neighborhood.

(h) The use will be consistent with the intent and purpose of this Zoning Code in that the park will be subject to compliance with all relevant sections of the zoning ordinance and codified ordinances, including noise, noxious vegetation, and property maintenance.

Therefore, as the request meets the general standards listed in Chapter 1290.04 as outlined above, planning staff recommends that the Planning Commission recommend to the City Commission approval of Special Use Permit Petition S-05-10 that would allow a private park on Parcel # 8140-00-027-0 with the following conditions:

Project Specific Conditions:

1. All necessary approvals and any required permits shall be obtained from the appropriate agencies, including but not limited to the Department of Public Works and Inspections Department, prior to Certificate of Occupancy.
2. The decorative light shall be directed toward the interior of the parcel, and not to adjacent properties.
3. Hours of operation shall be limited to daylight hours.
4. One sign not more than 2 square foot in size shall be allowed on the private property and must contain the rules and regulations of the park and hours of operation; such sign shall specify that the park is privately owned and not connected in any manner with the City of Battle Creek.
5. The approval for the special use permit is limited to those items included in the application, and any additional amenities proposed at a future date may require amendment to this special use permit.
6. The parcel will be properly maintained with proper weed removal, mowing of seeded areas, level pathways, and free of refuse.

Attachments

The following information is attached and made part of this Staff report.

1. Special Use Permit petition Form and Supplemental Information (Petition #S-05-10)